

November 3, 2015

SENT VIA FOIA ONLINE

Regional Freedom of Information Officer
U.S. EPA, Region 3
1650 Arch Street (3PA00)
Philadelphia, PA 19103

Re: Freedom of Information Act Request involving the U.S. Coast Guard Yard located at
2401 Hawkins Point Road, Baltimore, MD 21226

Dear FOIA Officer:

Pursuant to the Freedom of Information Act ("FOIA") of 1966, 5 U.S.C. § 552, and 40 C.F.R. Part 2, I request copies of, and/or the opportunity to inspect, all records in your custody and control, regardless of format, medium, or physical characteristics, and including electronic records and information, audiotapes, videotapes and photographs, regarding the following facility:

U.S. Coast Guard Yard
2401 Hawkins Point Road
Baltimore, MD 21226
FRS ID: 110000764325
Minor CWA Permit No. MD0003638, MDG766792, MD0067300, MDR003060

Please provide us with copies of all information for this facility regarding:

1. Discharge Monitoring Reports (DMRs) for the U.S. Coast Guard Yard corresponding to the permit numbers referenced above from January 1, 2010 through the current date (that is, DMRs from the first quarter of 2010 through the third quarter of 2015). If the DMR from the third quarter of 2015 is submitted to DEP while this FOIA request is still open, please include that as well.
2. The National Pollution Discharge Elimination System ("NPDES") permit for the above referenced facility, permit numbers MD0003638, MDG766792, MD0067300, and MDR003060, active or expired, in their entirety, and including, but not limited to all permit limits, narrative descriptions, modifications, revisions, updates, withdrawals, continuances or reissuances from January 1, 2009 to November 3, 2015. Please also contain or refer to the site's EPA Corrective Action Permit, as well as the Maryland Department of the Environment (Hazardous Waste Enforcement Division) Hazardous Waste Program Post Closure Permit and Consent Agreement.

3. The most recent permit applications for the above referenced facility, permit numbers MD0003638, MDG766792, MD0067300, and MDR003060.
4. The most current consent decree or federal facility agreement regarding the CERCLA status of the facility.

This information should not be subject to the FOIA exemptions, and we look forward to EPA's response within twenty (20) working days or sooner from today's date. If you determine that any of the information or records requested herein is exempt from FOIA, please identify such record(s) along with the statutory basis for your claim and your reasons for not exercising your discretion to release this information or record(s). If your office determines some of the portions of the requested materials are exempt, I request, in accordance with FOIA, that we be provided with the remaining non-exempt portions.

I respectfully request that any fee for the processing, production, or replication of the requested documents be waived pursuant to 5 USCS §552(a)(4)(A)(iii). This statutory provision provides that "Documents shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." *Id.*

A waiver is appropriate in this case because EAC is a 501(c)(3) nonprofit, public interest organization of limited resources. It would impose a heavy economic burden on EAC to have to pay for the duplication and mailing of the requested documents. Further, this information will not be used for commercial purposes. The waiver of fees is in the public interest because furnishing the requested documents primarily benefits the general public through EAC's work, in collaboration with other nonprofit organizations, to help organize and disseminate vital information to protect public health and the environment. The EAC will use several avenues to disseminate the information requested to the public. First, analysis of the data and documents requested will be discussed on EAC's web blog, for the purposes of updating sister organizations and the public of potential threats to human health and the environment. Similarly, EAC will distribute its analysis of the data and documents requested to the several working groups that it currently collaborates with for citizen enforcement of environmental laws, including the Chesapeake Bay Enforcement Network and the Riverkeepers Network of the Waterkeeper Alliance. Through our own blog and the public information networks of our sister organizations, this data will be availed to the communities most affected by this facility, namely, the residents and community members of Curtis Creek, the Severn River, the lower Patapsco River watershed, and Baltimore Harbor.

A fee waiver will enable local residents concerned about potential pollution to better understand the impacts and causes of this pollution. Thus, the waiver of fees in this case is in the public interest. This dissemination of information does not commercially benefit the EAC, as no fee will be charged for citizens to access this information once EAC has compiled it.

In the event that a waiver is denied, if you estimate that the fees will exceed a maximum of \$100, please inform me first and provide a written estimate of assessable fees. Please keep in mind that under 5 USCS §552(a)(4)(A)(ii)(III), agencies may only charge "reasonable standard charges for

document search and duplication.” Costs should not contemplate retrieving, inspecting or organizing files for copying because EAC is not requesting the documents for commercial use. *Comparing* 5 USCS §552(a)(4)(A)(ii)(I), (“fees shall be limited to reasonable standard charges for document search, duplication, and review, when records are requested for commercial use”) and 5 USCS §552 (a)(4)(A)(ii)(II), (“for any request not described in (I) or (II), fees shall be limited to reasonable standard charges for document search and duplication.”). If you have adopted a fee schedule for obtaining copies of records and other rules or regulations implementing the Act, please send me a copy.

Additionally, to facilitate delivery, please email electronic copies of the requested documents to this email address (david.reed@environmentalactioncenter.org), or mail electronic copies using a thumb drive. If an electronic version is unavailable, please send a CD or copies of the documents to my attention at the mailing address below. I look forward to receiving disclosable records promptly and, in any event, to a decision about all of the requested records within 20 days. If you have any questions concerning this request please call me at 202-253-5560 (mobile).

Thank you for prompt attention in responding to this request.

Sincerely,

ENVIRONMENTAL ACTION CENTER

A handwritten signature in blue ink that reads "David Reed".

By: David L. Reed
1000 Vermont Avenue NW, Suite 1100
Washington, D.C. 20005
(202) 263-4442